

# IN THE DISTRICT COURT OF ^ COUNTY, NEBRASKA

^,

Petitioner,

vs.

^,

Respondent.

Case No. ^

## PROGRESSION ORDER

**DATE OF CONFERENCE:** ^.

**PLACE OF CONFERENCE:** Judge's Chambers, Ainsworth, Nebraska, by telephone.

**APPEARANCES:**

For the petitioner: ^.

For the respondent: ^.

1. **INTERNET HOME PAGE:** The court's Internet home page address is:

**[www.nol.org/home/DC8/](http://www.nol.org/home/DC8/) or [www.dc8.state.ne.us](http://www.dc8.state.ne.us)**

2. **TRIAL:** Trial shall be held as follows:

A. TYPE: The trial shall be to the court in equity.

B. DATE/TIME: The matter shall be placed on the trial calendar following the final pretrial conference.

C. PRIORITY: The case shall be heard at the first available trial session in order of priority by date of placement on trial calendar, except that criminal cases shall have first priority for trial, and civil cases having statutory priority shall be advanced for trial prior to cases not having statutory priority. The status of the court's trial calendar, kept continually current, may be viewed on the court's Internet site.

3. **FINAL PRETRIAL CONFERENCE:** Unless continued by the court pending disposition of motions, a final pretrial conference shall be held on ^, at ^**.m.**, or as soon thereafter as possible, in the District Judge's chambers of the ^ County Courthouse in ^, Nebraska.

4. **FINAL PRETRIAL CONFERENCE:** Unless continued by the court pending disposition of motions, a final pretrial conference shall be held on ^, at ^**.m.**, by **telephonic** conference call, in the District Judge's chambers of the ^ County Courthouse in ^, Nebraska. ^**Petitioner's** counsel shall initiate the conference call, and the judge shall be reached at ^402-387-2162.

A. Trial counsel shall appear with full authority to stipulate regarding disputed facts and

to settle and compromise any claim or defense.

- B. If all settlement negotiations have not been exhausted, the petitioner and respondent shall be available in person at the final pretrial conference.
- C. **All lists and other documents** required by this order to be submitted at the pretrial conference shall be transmitted in sufficient time to be **received** by the judge **at least 48 hours prior** to the conference.

5. **PLEADINGS:**

- A. **ALLOWED PLEADINGS:** Pursuant to statute, the only pleadings allowed are the petition, the responsive pleading (with or without counter-petition), and the responsive pleading to counter-petition.
- B. **UNCONTESTED ALLEGATIONS:** Allegations of fact in a petition or counter-petition not denied in any responsive pleading thereto shall be deemed as admitted and may not be contested at trial.
- C. **PLEADINGS ON FILE:** The operative pleadings on file at the time of the conference are:
  - (1) **PETITION:** The ^ petition filed on ^.
  - (a) **RESPONSIVE PLEADING:** The ^ responsive pleading filed on ^.
  - (2) **COUNTER-PETITION:** The counter-petition filed on ^.
  - (a) **RESPONSIVE PLEADING:** The ^ responsive pleading filed on ^.
- D. **AMENDMENTS:** By agreement of counsel and without necessity of formal motion granting leave therefor, the ^ shall be allowed to file a(n) ^ on or before ^.
  - (1) The ^ shall have ^ days thereafter to ^.
  - (2) The ^ shall have ^ days thereafter to ^.
- E. **LATER MOTIONS TO AMEND:** Motions for leave to amend pleadings shall be filed on or before ^, and promptly noticed for hearing in compliance with Rule 8-3 in sufficient time that all amendments and any pleadings in response thereto will be completed prior to the completion of discovery.
- F. **UNTIMELY MOTIONS:** Motions for leave to amend pleadings filed after such date will be summarily denied unless accompanied by a showing:
  - (1) that the granting of the motion will not delay progression to the final pretrial conference, or,

- (2) of cause why the motion could not have been timely filed in the exercise of reasonable diligence, including but not limited to prompt pursuance of discovery.

6. **DISCOVERY:** After discussion among the court and counsel, the court finds that the general discovery completion date (“the completion date”) of ^, constitutes a reasonable time for the completion of discovery, and hereby orders that all discovery shall be completed by that date, as follows:

- A. **WRITTEN DISCOVERY:** All interrogatories, requests for admission or requests for the production of documents and for inspection shall be served upon the other parties in sufficient time such that answers thereto may be submitted under normal discovery rule time limits by the completion date.
- B. **SUPPLEMENTAL ANSWERS:** All supplemental answers to previously served interrogatories or requests for admission shall be served upon the other parties by the completion date.
- C. **DEPOSITIONS:** All depositions shall be taken by the completion date.
- D. **PHYSICAL AND MENTAL EXAMINATIONS:** All requests for a physical or mental examination shall be submitted in sufficient time that any necessary hearing may be held and the examination conducted and completed by the completion date.
- E. **EXTENSION OF DISCOVERY TIME:** The times for discovery may be extended by the stipulation of the parties, without permission of the court, if the extension will not delay any trial or the progression of the case toward trial, and the time for discovery will be extended by the court only after motion and hearing, upon the showing of good cause.

7. **WITNESSES:**

- A. **AUTOMATIC DISCLOSURES:** Within ^ days from the date of this progression conference, each party shall, without request, serve upon the other party identification by name and address of all persons likely to have information which bears significantly on the issues in the case, to the extent not previously provided through discovery.
- B. **FINAL LIST PRODUCED:** At the final pretrial conference, each party shall submit to the Court (**not** file with the court clerk), and serve on the other party, a list of

witnesses showing **specific** name, address, and telephone number. Any witness listed thereon, but not previously disclosed by either party pursuant to paragraph A above, shall be further identified by a summary of the testimony of such additional witness. After that date, witnesses may be added to the witness list only with the permission of the court given after showing of good cause.

- C. **ADDITIONAL WITNESSES:** Except rebuttal witnesses not now known, neither party may call as a witness at trial any person that is not on either of the final witness lists (without regard to the identity of the party submitting the list).

8. **EXHIBITS:**

- A. **AUTOMATIC DISCLOSURES:** Within ^ days from the date of this progression conference, each party shall, without request, serve upon the other party a photocopy of, or a description by category and location of, all documents, data, compilations, and tangible things in the possession, custody, or control of the party that are likely to bear significantly on any issue in the case, to the extent not previously provided through discovery.
- B. **FINAL LIST PRODUCED:** At the final pretrial conference, each party shall submit to the Court (**not** file with the court clerk), and serve on the other party, a list of exhibits showing **specific** description thereof. Any exhibit listed thereon, but not previously disclosed by any party pursuant to paragraph A above, shall be further identified by furnishing a photocopy thereof to the other party unless photocopying the exhibit is impractical or unduly expensive. After that date, exhibits may be added to the exhibit list only with the permission of the court given after showing of good cause.
- C. **ADDITIONAL EXHIBITS:** The parties are limited to the exhibits on either of the final exhibit lists (without regard to the identity of the party submitting the list).
- D. **NONDOCUMENTARY/OVERSIZE EXHIBITS:** Pursuant to Supreme Court rule:
  - (1) The party offering any nondocumentary item of physical evidence shall provide a photograph, not exceeding 8½ by 11 inches and which fairly and accurately depicts the item, to the court reporter at the time the original exhibit is marked.
  - (2) The party offering any documentary item of evidence exceeding 8½ by 11 inches shall provide a reduced size photographic copy or photograph, not

exceeding 8½ by 11 inches and which fairly and accurately depicts the item, to the court reporter at the time the original exhibit is marked.

- (3) The court reporter shall refuse to mark and the Court may refuse to accept any such item submitted but not accompanied by such copy or photograph.

- E. **MARKING EXHIBITS:** All exhibits shall be marked by the official court reporter (“reporter”). Counsel shall not pre-mark exhibits except after consultation with and obtaining approval of the reporter. Counsel shall appear at least 30 minutes prior to trial to present exhibits to the reporter for marking, unless counsel has made advance arrangements with the reporter for pre-marking of exhibits. If exhibits are too numerous to be marked within such 30 minute period, counsel shall make advance arrangements with the reporter for pre-marking of exhibits. Except for matters arising during trial which could not reasonably have been foreseen, all exhibits shall be marked prior to the commencement of trial.
- 9. **FOUNDATION:** Specific objections to foundation for exhibits shall be raised by the parties at the pretrial conference, or the foundational objection shall be considered waived at time of trial. At the pretrial conference, exhibits will be classified into the following categories:
    - A. Category “A” exhibits will be those for which the parties waive all objections and stipulate that the same may be admitted without objection upon offer by either party.
    - B. Category “B” exhibits will be those for which the parties waive foundation and stipulate that the same may be admitted without foundation, but reserve any other objection to them.
    - C. Category “C” exhibits will be those for which no objections are waived, and to which specific foundational objection(s) is/are asserted at the pretrial conference.
  - 10. **STIPULATIONS:** The parties shall attempt to stipulate to all agreed facts in writing, which stipulation shall be submitted to the Court (**not** filed with the court clerk) at the pretrial conference. In the event that no facts can be stipulated to by the parties, the parties shall each submit separate proposed stipulations to the Court at the pretrial conference.
  - 11. **TRIAL PROCEDURES:** At the final pretrial conference, trial procedures will be considered. In addition to any other matters which may be raised by the parties or counsel, the court will consider procedures regarding:
    - A. Requests for record of portion of trial for which no verbatim record is required by

Supreme Court Rule 5A(1) of Practice and Procedure.

- B. Any requests for sequestration of witnesses.
- C. Procedures for use of any videotape depositions.
- D. Procedures for requesting permission to approach witnesses or the official court reporter.
- E. Use of formal titles to address counsel, parties, and witnesses.
- F. Prohibition against entering judge's chambers ex parte during trial.
- G. Itemizations of costs.

12. **ISSUES:**

- A. **PROPERTY/DEBTS:** If division of property and/or debts is contested, the parties shall prepare and submit at the pretrial conference a Joint Property Statement.

(1) The statement shall be in the form set forth in "Attachment 1" to this order, which shall contain both parties' descriptions of all property in dispute, including, without limitation, each party's value thereof.

(2) The items of property described in the Joint Property Statement shall be grouped by category, and further information provided for each specific item as follows:

- (a) Real Estate (for each parcel of real estate owned):
  - 1) Legal description;
  - 2) Mortgage or lien (Name and amount);
  - 3) Fair market value.
- (b) Vehicles, including recreational vehicles or boats (For each vehicle):
  - 1) Year, make, and v.i.n.;
  - 2) Mortgage or lien (name and amount);
  - 3) Fair market value.
- (c) Cash, Checking and Savings Accounts (for each account):
  - 1) Name of financial institution;
  - 2) How title held;
  - 3) Amount at time of filing of petition;
  - 4) Amount at time of pretrial.
- (d) Stocks and Bonds (for each stock or bond held):
  - 1) Name and address;
  - 2) Description of the security;
  - 3) Value at time of filing of petition;
  - 4) Value at time of pretrial.

- (e) Life Insurance (for each policy owned or held):
  - 1) Name of company;
  - 2) Policy number;
  - 3) Cash surrender value, as close to date of pretrial as possible;
  - 4) Loan against policy (date and amount);
  - 5) Owner;
  - 6) Beneficiary.
- (f) Furniture and Personal Effects: List only items that are in dispute, or that are in possession of party not receiving item (description and value).
- (g) Other assets and property (description and value).
- (h) Indebtedness (for each creditor):
  - 1) Name of creditor;
  - 2) Present amount of indebtedness;
  - 3) By whom incurred/when incurred/original amount;
  - 4) Purpose;
  - 5) Amount of installment.
- (i) Pension/Retirement Plans:
  - 1) Name;
  - 2) Participant;
  - 3) Value at time of filing of petition;
  - 4) Value at time of pretrial.
- (j) Property brought into marriage, or received by gift or inheritance during marriage (description and value).

- B. ALIMONY: If alimony or spousal support is contested, each party shall prepare and submit at the pretrial conference a list of each factor the party maintains should be considered by the court in determining alimony, and with respect to each such factor, proposed specific findings of fact regarding the existence or nonexistence of such factor which the party expects to adduce in evidence at trial.
- C. CUSTODY: If child custody is in issue, each party shall prepare and submit at the pretrial conference a list of each factor the party maintains should be considered by the court in determining custody, and with respect to each such factor, proposed specific findings of fact regarding the existence or nonexistence of such factor which the party expects to adduce in evidence at trial.
- D. CHILD SUPPORT: If there are any minor children of the marriage, the parties shall

prepare and submit at the pretrial conference detailed child support guideline calculations, including mathematical calculations used and the reasons for any proposed deviation from the guideline calculations, with 2 years' tax returns for each party and current payroll data. If the parties do not agree upon the calculations, each party shall submit separate calculations.

- E. **SPECIFIC VISITATION:** If specific child visitation conditions are requested by either party, each party shall prepare and submit at the pretrial conference any proposed deviations from the standard visitation schedule (Appendix "C") used in the Eighth Judicial District.
  - F. **OTHER REQUESTED RELIEF:** If any other relief is requested by either party, including, but not limited to, attorneys' fees, costs, allocation of income tax child exemptions, child care expenses, health insurance, or allocation of unreimbursed health care expenses, each party shall prepare and submit at the pretrial conference a list of each factor the party maintains should be considered by the court in determining such item of relief, and with respect to each such factor, proposed specific findings of fact regarding the existence or nonexistence of such factor which the party expects to adduce in evidence at trial.
13. **ISSUES:** Each party shall submit (**not** file) a list of disputed factual and legal issues at the pretrial conference. Such list shall be in the form of the legal elements of each claim or defense, and the contested factual issues as to each element of the claim or defense.
14. **PRETRIAL MOTIONS:**
- A. All pretrial motions, not otherwise provided for above, shall be filed on or before ^, and noticed for hearing **prior to** the date of the pretrial conference in compliance with Rule 8-3.
  - B. Briefs in support of pretrial motions shall be served and submitted as follows:
    - (1) Any moving party who desires to submit a brief in support of the motion shall serve the brief in support on opposing counsel at the time of filing and service of the motion. Failure to serve a brief in support with the motion shall be deemed as a waiver of the right to submit such brief.
    - (2) If the nonmoving party desires to submit a brief in opposition to the motion, such brief shall be served on opposing counsel at or prior to the hearing on the



motion. Unless the nonmoving party moves for continuance of the hearing with supporting affidavit(s), failure to serve a brief in opposition at or prior to date of hearing shall be deemed as a waiver of the right to submit such brief.

- (3) Any reply brief in support of the motion shall be served within 5 days after the date of hearing on the motion, if specifically requested by either party and only if allowed by the court.
- (4) Pursuant to Uniform District Court Rule 5B, all briefs shall be submitted to the trial judge and shall **not** be filed with the court clerk. The preferences for delivery set forth below for trial briefs shall apply here, except that initial briefs in support and briefs in opposition need not be actually delivered to the judge until the date of hearing on the motion.

C. The parties are cautioned that the court, on its own motion, may consider the pendency of a nonfrivolous pretrial motion as a sufficient ground for continuance of the pretrial conference until the motion has been decided.

- 15. **PRETRIAL MOTIONS:** Neither party desires to file any additional pretrial motions and none shall be hereafter filed or considered except upon showing of good cause.
- 16. **TRIAL BRIEFS:** All trial briefs shall be submitted in sufficient time that the same shall be **received** by the Judge at least 10 days prior to trial. All briefs shall be submitted to the Judge, **not** filed with the clerk (see Uniform District Court Rule 5B). Copies shall be served on opposing counsel.
- 17. **DELIVERY PREFERENCES:** The court's preferences for delivery are:
  - (1st) by electronic mail (as attachment of word processing file) to Internet address — [cassel08@nol.org](mailto:cassel08@nol.org) (note that 08 following cassel are numeric while all others are alphabetic);
  - (2nd) on CDROM or 3.5" floppy diskette (prefer WordPerfect format) by personal delivery or by mail to P.O. Box 105, Ainsworth, NE 69210-0105;
  - (3rd) hard copy by personal delivery or by mail to P.O. Box 105, Ainsworth, NE 69210-0105.
- 18. **OBJECTIONS:** The parties are allowed ten (10) days from the date of entry of this order to them to file written objections to this order with the court clerk. A hearing will be held on any objections as noticed for hearing in compliance with Rule 8-3. Any objection not noticed for hearing in compliance with Rule 8-3 may be denied without a hearing.

Signed in chambers at **Ainsworth**, Nebraska, on ^;  
DEEMED ENTERED upon file stamp date by court clerk.  
If checked, the court clerk shall:

- ☒ Mail a copy of this order to all counsel of record and any pro se parties.  
Done on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.
- ☒ Note the decision on the trial docket as: [date of filing] **Signed “Progression Order”  
entered; pretrial conference scheduled for** [date from order] **at** [time from order].  
Done on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

BY THE COURT:

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William B. Cassel  
District Judge

Mailed to:

## JOINT PROPERTY STATEMENT

\_\_\_\_\_ v. \_\_\_\_\_ Case m CI \_\_\_\_ - \_\_\_\_\_

### SUMMARY

#### A. Agreed Distribution of Assets:

Item	Husband's Value	Wife's Value
A.1. Property the Parties agree is to belong to the <b>Wife</b> :		
A.2. Property the Parties agree is to belong to the <b>Husband</b> :		

#### B. Property for which Distribution is Disputed:

Item	Husband's Value	Wife's Value
B.1. <b>Wife's</b> proposal to distribute to <b>Husband</b>		
B.2. <b>Wife's</b> proposal to distribute to <b>Wife</b>		
B.3. <b>Husband's</b> proposal to distribute to <b>Husband</b>		
B.4. <b>Husband's</b> proposal to distribute to <b>Wife</b>		

#### C. Debts

Item	Debt To be paid by Husband	Husband's Monthly Payment	Debt To be paid by Wife	Wife's Monthly Payment
C.1 Agreed Allocation of Debts				
C.2 Debts for which there is dispute on allocation				
C.3 <b>Wife's</b> proposal on Disputed Debts				
C.4 <b>Husband's</b> proposal on Disputed Debts				

#### Summary of Proposals:

	Wife's Proposal		Husband's Proposal	
	Husband	Wife	Husband	Wife
Distribution of Assets				
Debts to be Paid				
Net Property Distribution				

**A.1. Property the Parties agree is to belong to the Wife:**

Item Description. (Specific items shall be listed if <b>not</b> in Wife's possession.)	Husband's Value	Wife's Value
TOTAL (List on Page 1, Line A.1)		

**A.2. Property the Parties agree is to belong to the Husband:**

Item Description. (Specific items shall be listed if <b>not</b> in Husband's possession.)	Husband's Value	Wife's Value
TOTAL (List on Page 1, Line A.2)		

**B. Property for which Distribution is Disputed:**

Property Description	Nature of Dispute	Husband's Value	Wife's Value

**B.1 Wife's Proposal of Disputed Property to go to Husband:**

Item Description	Husband's Value	Wife's Value
TOTAL (List on Page 1, Line B.1)		

**B.2 Wife's Proposal of Disputed Property to go to Wife:**

Item Description	Husband's Value	Wife's Value
TOTAL (List on Page 1, Line B.2)		

**B.3 Husband's Proposal of Disputed Property to go to Husband:**

Item Description	Husband's Value	Wife's Value
TOTAL (List on Page 1, Line B.3)		

**B.4. Husband's Proposal of Disputed Property to go to Wife:**

Item Description	Husband's Value	Wife's Value
TOTAL (List on Page 1, Line B.4)		

**C.1. Allocation of Debts for which there is Agreement:**

Description of Debt. (Specific items shall be listed.)	To be Paid by Husband	Husband's Monthly Payment	To be Paid by Wife	Wife's Monthly Payment
TOTAL (List on Page 1, Line C.1)				

**C.2. Debts for which there is Dispute as to how much each party pays:**

Debt Description	Nature of Dispute	Agreed Balance	Monthly Payment	If disputed, Husband's Balance	If disputed, Wife's Balance
TOTAL (List on Page 1, Line C.2)					

**C.3. Wife's Proposal on Disputed Debts:**

Debt Description	To be paid by Husband	Husband's Monthly Payment	To be paid by Wife	Wife's Monthly Payment
TOTAL (List on Page 1, Line C.3)				

**C.4. Husband's Proposal on Disputed Debts:**

Debt Description	To be paid by Husband	Husband's Monthly Payment	To be paid by Wife	Wife's Monthly Payment
TOTAL (List on Page 1, Line C.4)				

The undersigned acknowledge that:

1. The foregoing is a true and accurate statement of the agreements and disputes of the parties as they relate to the property belonging to the parties and the debts to which the parties are obligated.
2. The foregoing statement sets forth honest values of the property and debts in dispute.
3. After the final pretrial conference, there may be no changes to information appearing in this Joint Property Statement without the consent of the opposing party or leave of court.
4. Witnesses, exhibits or other evidence will not be permitted unless the property issue timely appears in this Joint Property Statement.
5. They have met and discussed the possibility of resolving their disputes over the allocation of property and debt and have been unable to do so in spite of good faith efforts to reach compromise.

Dated by Petitioner: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Petitioner's Counsel

Dated by Respondent: \_\_\_\_\_

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Respondent's Counsel